

HEMINGWAY ZONING ORDINANCE

prepared for the
Hemingway Planning Commission
by the
Waccamaw Regional Planning and Development Council

Adopted Dec. 21, 1999

Town of Hemingway

Zoning Map

LEGEND

Zoning Class

- C-1 Arterial Business
- C-2 Central Business
- HI Heavy Industrial
- LI Limited Industrial
- OC Office Commercial
- R1 Low Density Residential
- R2 Medium Density Residential
- R3 High Density Residential
- PD Planned Development



Railway



1. Rezoned to C-1 on 1/19/03
2. Rezoned to OC on 3/11/04
3. Rezoned to C-1 on 8/25/05
4. Planned to P-1

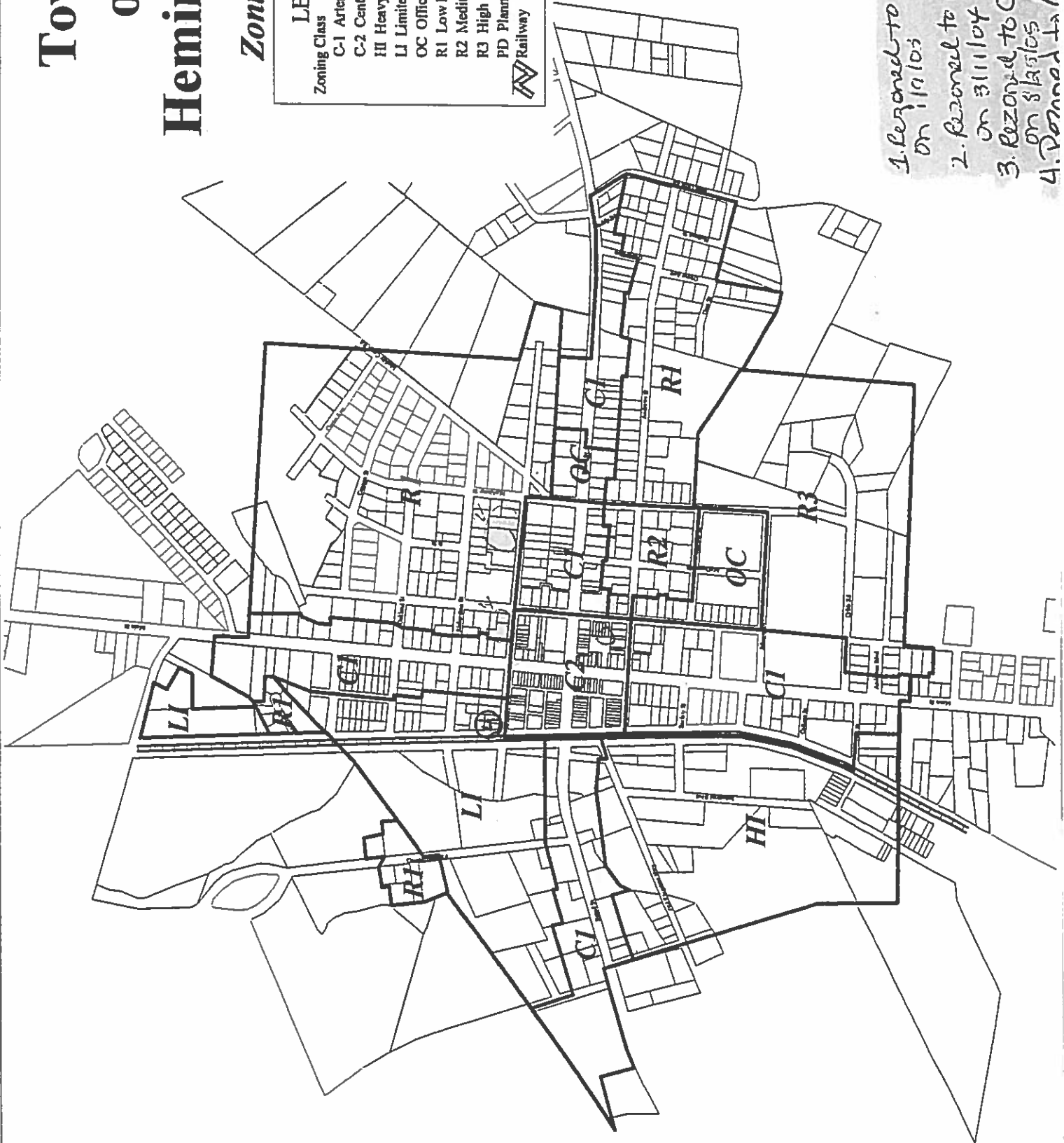


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AUTHORITY

AN ORDINANCE, IN PURSUANCE OF THE AUTHORITY GRANTED BY THE GENERAL STATUTES OF SOUTH CAROLINA, TITLE 6, CHAPTER 29, ARTICLE 5, FOR THE PURPOSE OF PROMOTING THE PUBLIC HEALTH, SAFETY, MORALS, CONVENIENCE, ORDER, APPEARANCE, PROSPERITY AND GENERAL WELFARE; TO PROVIDE FOR ESTABLISHMENT OF DISTRICTS WITHIN THE CORPORATE LIMITS; TO REGULATE, WITHIN SUCH DISTRICTS, THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES AND SIZES OF BUILDINGS AND STRUCTURES, THE PERCENTAGE OF LOT OCCUPANCY, THE REQUIRED OPEN SPACES, THE DENSITY OF POPULATION AND THE USES OF LAND, BUILDINGS AND STRUCTURES: TO PROVIDE METHODS OF ADMINISTRATION OF THIS ORDINANCE AND TO PRESCRIBE PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED by the Town Council of Hemingway:

ARTICLE I

SHORT TITLE

This Ordinance shall be known as the "Zoning Ordinance of the Town of Hemingway, South Carolina", and the map herein referred to, which is identified by the title "Zoning Map of the Town of Hemingway, South Carolina", dated December 21, 1999 , and all explanatory matter thereon are hereby adopted and made a part of this Ordinance.

ARTICLE II

PURPOSE

The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals and the general welfare

of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, flood, panic and overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its particular suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.

ARTICLE III

DEFINITIONS

Unless otherwise stated, the following words shall, for the purpose of this Ordinance, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word "shall" is mandatory, not directory. The word "used" or "occupied" as applied to any land or building shall be construed to include the word intended, arranged, or designed to be used or occupied. The word "person" includes a firm, association, organization, partnership, trust company or corporation as well as an individual.

- 301 Alley. A public or private way, at the rear or side of the property, permanently reserved as a means of providing secondary or service vehicular access to abutting property, less in size than a street, and which is not designed for general vehicular traffic.
- 302 Automobile Service Station. Any land, building, structure, or premises used for the sale at retail of motor vehicle fuels, oils, or accessories, or for servicing, installing, or repairing parts and accessories, but not including the repairing of bodies, or fenders of motor vehicles, or painting motor vehicles, and excluding public garages. Repairing and replacing of motors will be allowed in a completely enclosed area.
- 303 Boarding House. A building, other than a motel, hotel or apartment house, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three (3) or more persons.
- 304 Buffer Strip. A suitable planting, screen, fence, or wall at least six (6) feet in height above finished grade which will provide a suitable obscuring screen.
- 305 Buildable Area. That portion of any lot which may be used or built upon in accordance with the regulations governing the given zoning district within which the particular lot is located once the various front, side, and rear yard requirements required for that district have been subtracted from the total area.
- 306 Building. Any structure having a roof supported by columns or walls for the shelter

or enclosure of persons or property.

- 306.1 Principal Building. A building in which is conducted the main or principal use of the lot on which said building is located.
- 306.2 Accessory Building or Use. A subordinate building or use, the use of which is incidental to and customary in connection with the principal building or use, and which is located on the same lot with such principal building or use.
- 307 Building Height. The highest vertical distance measured from the finished grade at ground level at the building line to the highest point of the roof.
- 308 Building Line. That line which represents the distance a building or structure must be set back from a lot boundary or a street right-of-way line or a street centerline according to the terms of this Ordinance.
- 309 Clinic. An establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine.
- 310 Dwelling. A building designed or used as the permanent living quarters for one or more families.
- 310.1 Dwelling, Single-Family. A building designed for or occupied exclusively by one (1) family.
- 310.2 Dwelling, Two-Family. A building designed for or occupied exclusively by two (2) families.
- 310.3 Dwelling, Multi-Family. A building designed for or occupied exclusively by three (3) or more families.
- 310.4 Dwelling Unit. A building, or portion thereof, providing complete and permanent living facilities for one (1) family.
- 310.5 Town House. A building that has single-family dwelling units erected in a "row" as a single building, on adjoining lots, each being separated from the adjoining unit or units by a common wall extending from the basement floor to the roof along the dividing lot line, and each such building being separated from any other building by space on all sides.
- 311 Family. One (1) or more persons occupying a premise and living together as a single housekeeping unit.

- 312 Garage, Private. A detached accessory building or portion of a main building housing the automobiles of the occupants of the premises.
- 313 Garage, Repair. A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term "repairing" shall not include an automotive body repair shop, nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.
- 314 Home Occupation. Any occupation within a dwelling and clearly incidental thereto, carried on by a member of the family residing on the premises, provided that no person not a resident of the premises is employed, no stock in trade is kept or commodities sold, no mechanical equipment is used except such that is normally used for family, domestic, or house-hold purposes, and there is no exterior indication other than a sign permitted by the district regulation, that the building is being used for any purpose other than a dwelling. When within the above requirements, a home occupation includes but is not limited to the following: (a) art studio; (b) dress-making; (c) professional office of a lawyer, engineer, architect, accountant, salesman, real estate agent, insurance agent, or other similar occupation; and, (d) teaching, with musical instruction limited to one, or two pupils at a time.
- 315 Junk or Salvage Yards. The use of premises for open storage of old, dilapidated and unlicensed automobiles, trucks, tractors, and other such vehicles and parts thereof, wagons and other kinds of vehicles and parts thereof, scrap building material, scrap contractor's, equipment, tanks, cases, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, pallets, excelsior, mattresses, beds or bedding, or any other kind of scrap or waste material.
- 316 Loading Space, Off-Street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.
- 317 Lot. A parcel of land which fronts on and has access to a public or private street and which is occupied or intended to be occupied by a building or buildings with customary accessories and open space.
- 318 Lot of Record. A lot, the boundaries of which are filed as a legal record.
- 319 Manufactured Home (Mobile Home). A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or at

least forty (40) body feet in length, or when erected on site is three hundred and twenty (320) square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and may include the plumbing, heating, air-conditioning and electrical systems contained therein.

- 320 Mobile Home Park. A tract of land on which two (2) or more mobile homes are located or intended to be located.
- 321 Modular Unit. A structure consisting of two (2) or more prefabricated components which is designed to be placed on a permanent foundation at the site and is not readily relocatable. The components generally arrive at the site complete except for exterior siding, furniture and plumbing and electrical fixtures. Modular units shall be considered buildings and shall conform with the regulations for site built units in the Standard Building Code.
- 322 Non-Conforming Use. The lawful use of land or a building or a portion thereof, which use does not conform with the regulations of the district in which it is located.
- 323 Nursing Home. A home for the aged or infirm, in which three (3) or more persons not of the immediate family are received, kept, or provided with food and shelter or care for compensation; but, not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.
- 324 Sign. An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, person, institution, or business.
- 325 Story. That portion of a building included between the surface of any floor and the surface of the floor next above it; or, if there be no floor above it, then the space between such floor and the ceiling next above it. If the finished floor level directly above a basement or cellar is more than six (6) feet above grade, such basement or cellar shall be considered a story.
- 326 Street. A public thoroughfare which affords the principal means of access to abutting property.
- 327 Structure. Anything constructed, erected, or established including, but without limiting, the generality of the following: buildings, signs, trailers, fences, screened enclosures, patio walls, backstops, and sun decks for similar activities.
- 328 Total Floor Area. The area of all floors of a building including finished attic, finished basement, and covered porches.

329 Yard. A required open space other than a court unoccupied from twelve (12) inches above the general ground level of the graded lot upward, provided however that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

329.1 Yard, Front. A yard extending across the entire width of the lot between the front lot line and the nearest part of the principal building. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of thirty (30) inches, and no hedge nor vegetation shall be permitted which materially impedes vision across such yard between the heights of thirty (30) inches and ten (10) feet within twenty (20) feet from the street.

329.2 Yard, Side. A yard extending along the side lot line from the front yard to the rear lot line, and lying between the side lot line and the nearest part of the principal building, including covered porches, overhangs, elevated decks, stairs, etc.

329.3 Yard, Rear. A yard extending across the rear of the lot between inner side yard lines and lying between the rear lot line and the nearest part of the principal building, including covered porches, overhangs, elevated decks, stairs, etc.

ARTICLE IV

ESTABLISHMENT OF DISTRICTS

For the purpose of this Ordinance, the Town of Hemingway, South Carolina, is hereby divided into nine (9) classes or districts as follows:

- | | |
|-------------|-------------------------------------|
| Residential | - R-1 District - Low Density |
| Residential | - R-2 District - Medium Density |
| Residential | - R-3 District - High Density |
| Commercial | - C-1 District - Arterial Business |
| Commercial | - C-2 District - Central Business |
| Commercial | - OC District - Office Commercial |
| Industrial | - LI District - Limited Industrial |
| Industrial | - HI District - Heavy Industrial |
| | - PD District - Planned Development |

ARTICLE V

APPLICATION OF REGULATIONS

Except as herein provided:

- 501 Use. No building or land shall hereinafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the District in which it is located.
- 502 Street Frontage. No dwelling shall be erected on a lot which does not abut on at least one (1) street for at least fifty (50) feet, except that lots fronting on cul-de-sacs may have a minimum road frontage of thirty (30) feet if the lot is at least fifty (50) feet in width at the building line.
- 503 Corner Lots. The minimum width of a side yard along an intersecting street (corner lot) shall be fifty (50%) percent greater than the minimum side yard requirements of the District in which the lot is located.
- 504 One Principal Building on a Lot. Only one (1) principal building and its customary accessory buildings may hereafter be erected on any lot.
- 505 Reduction of Lot Size. No lot shall be reduced in area so that yards, lot area per family, lot width, building area or other provisions of this Ordinance shall not be maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.
- 506 Yard and Other Spaces. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space required under this Ordinance for another building.
- 507 Conformity to Development Regulations. No building permit shall be issued for or no building shall be erected on any lot within the Town, unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as a public street prior to that time or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Planning Commission and such approval entered in writing on the plat by the secretary of the Commission.
- 508 Customary Accessory Buildings in Residential Districts. Accessory buildings are permitted provided they are located in rear yards and not closer than five (5) feet to any property line. Accessory buildings shall also comply with the setback from the intersecting street and not cover more than twenty (20%) percent of any required rear

yard.

- 509 Building Area. On any lot, within an R-1 Residential District, the area occupied by all buildings including accessory buildings, shall not exceed thirty (30%) percent of the total area of such lot. In R-2 Residential Districts, lot area occupied by all buildings including accessory buildings, shall not exceed thirty-five (35%) percent of the total area of such lot.
- 510 Height and Density. No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards than are required or specified in the regulations herein for the District in which it is located.
- 511 Annexations. All territory which may hereafter be annexed shall be considered to be in the R-1 Low Density Residential District until otherwise classified.
- 512 Travel Trailers. No travel trailer, motor home, camper or similar vehicle or structure shall be utilized for residential purposes.
- 513 Junk and Salvage Materials. All junk and/or salvage materials shall be stored, when permitted, within enclosed buildings.

ARTICLE VI

GENERAL PROVISIONS

- 601 Continuance of Nonconforming Uses. Any lawful use of any building or land existing at the time of the enactment of this Ordinance or whenever a district is changed by an amendment thereafter may be continued although such use does not conform with the provisions of this Ordinance with the following limitations:
- 601.1 No building or land containing a nonconforming use shall hereafter be extended unless such extension shall conform with the provisions of this Ordinance for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the time of enactment of this Ordinance.
- 601.2 Any nonconforming building which has been damaged by fire or other causes, may be reconstructed and used as before unless the Building Inspector determines that the building is damaged to the extent of more than seventy-five (75%) percent of its appraised value for tax purposes in which case any repair or reconstruction shall be in conformity with the provisions of this Ordinance. Reconstruction shall begin within six (6) months after damage is incurred and be completed within one (1) year of the starting date. The Building Inspector may grant a six (6) month extension for good cause shown.
- 601.3 When a nonconforming use of any building or land has ceased for a period of 180 days, it shall not be reestablished or changed to any use not in conformity with the provisions of this Ordinance.
- 601.4 All nonconforming outdoor advertising signs, junk yards, commercial animal yards, and lumber yards not on the same lot with a plant or factory shall be required to conform to the provisions of this Ordinance within three (3) years upon official notification by the Building Inspector.
- 601.5 No building or land containing a nonconforming use shall be changed to another nonconforming use.
- 602 Obstruction of Vision at Street Intersections Prohibited. On a corner lot in all districts except the C-2 (Central Business District), no fence, wall, shrubbery, or other obstruction to vision between the height of three (3) feet and ten (10) feet above the street grade shall be permitted within twenty (20) feet of the intersection of the right-of-way of streets or streets and railroads.

603 Off-Street Automobile Parking. Off-street automobile parking space shall be provided on every lot on which any of the following uses are hereafter established except in the C-2 (Central Business District). The number of automobile parking spaces provided shall be at least as great as the number specified below for various uses. Each space shall have at least two hundred (200) square feet in area and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into the street.

603.1 Automobile repair garages: One (1) space for each regular employee plus one (1) space or each two hundred fifty (250) square feet of floor space used for repair work.

603.2 Churches: One (1) space for each four (4) seats.

603.3 Clubs and lodges: One (1) space for each three hundred (300) square feet of floor area.

603.4 Dwellings: Two (2) spaces for each dwelling unit.

603.5 Funeral parlors: One (1) space for each four (4) seats in the chapel.

603.6 Gasoline service stations and similar establishments: Two (2) spaces for each bay or similar facility plus one (1) space for each employee.

603.7 Hospitals and nursing homes: One (1) space for each two (2) staff or visiting doctors plus one (1) space for each two (2) employees and one (1) space for each four (4) beds, computed on the largest number of employees on duty at any period of time.

603.8 Hotel: One (1) space for each four (4) employees plus one (1) space for each two (2) guest rooms.

603.9 Industry: One (1) space for each three (3) employees computed on the largest number of persons employed at any period during day or night.

603.10 Motels and tourists courts: One (1) space for each four (4) employees plus one (1) space for each accommodation.

603.11 Offices: Medical - One (1) space for each three hundred (300) square feet of floor area.

Other professional - One (1) space for each four hundred (400) square feet of floor area.

General - One (1) space for each four hundred (400) square feet of floor area.

603.12 Places of public assembly: One (1) space for each four (4) seats in the principal assembly room or area.

603.13 Recreation and amusement areas without seating capacity: One (1) space for each five (5) customers, computed on maximum service capacity.

603.14 Restaurants: One (1) space for each four (4) employees, plus one (1) space for each one hundred (100) square feet of floor space devoted to patron use.

603.15 Retail business and similar uses: One (1) space for each two hundred ~~(200)~~ ^{300 Amended} square feet of gross floor space. _{5/12/11}

603.16 Schools: One (1) space for each faculty member, plus one (1) space for each four (4) pupils except in elementary and junior high schools.

603.17 Mobile home parks: Two (2) spaces for each manufactured home space.

603.18 Wholesale business: One (1) space for each three (3) employees based on maximum seasonal employment.

603.19 If off-street parking space required above cannot be reasonably provided on the same lot on which the principal use is conducted, the Building Inspector may permit such space to be provided on other off-street property provided such space lies within four hundred (400) feet of the main entrance to such principal use. Such vehicle parking space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

603.20 Extension of parking space into a residential district: Required parking space may extend up to one hundred twenty (120) feet into a residential zoning district, provided that : (1) the parking space adjoins a commercial or industrial district; (2) has its only exit to or fronts upon the same street as the property in the commercial or industrial district from which it provides the required parking space; and, (3) is separated from abutting properties in the residential district by a plant or fence buffer as determined by the Building Inspector.

604 Off-Street Loading and Unloading Space. On every lot on which a business, trade, or industry use is hereafter established (except in the C-2 District) space with access to a public street or alley shall be provided as indicated below for the loading and

unloading of vehicles off the public street or alley:

- 604.1 Retail business: One (1) space of at least twelve (12) by twenty-five (25) feet for each three thousand (3,000) square feet of floor area or part thereof.
- 604.2 Wholesale and industrial: One (1) space of at least twelve (12) by fifty (50) feet for each ten thousand (10,000) square feet of floor area or part thereof.
- 604.3 Terminals: Sufficient space to accommodate the maximum number of vehicles that will be stored and loading and unloading at the terminal at any one time.

ARTICLE VII

PROVISIONS GOVERNING USE DISTRICTS

701 R-1 - Low Density Residential District.

Intent. To provide for quiet, liveable low-density single-family neighborhoods, and to prohibit the establishment of incompatible land uses and to disallow any other use which would substantially interfere with the development or continuation of single-family dwellings in the District and to encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Article.

701.1 Uses Permitted:

- (1) Detached single-family dwellings (other than manufactured homes);
- (2) Noncommercial horticulture or agriculture, but not including the keeping of poultry or livestock;
- (3) Neighborhood and community parks, non-lighted golf courses and similar open type recreational uses;
- (4) No manufactured homes are allowed in this district;
- (5) Customary incidental home occupations;
- (6) Public buildings; and,
- (7) Permitted accessory uses.

701.2 Conditional Uses:

- (1) Churches, public and private schools, hospitals and similar uses provided that the structures are places not less than fifty (50) feet from any residential property line; and,
- (2) Public utilities, including water towers, provided that a landscaped strip of not less than ten (10) feet in width is provided and suitably maintained around the facility.
- (3) Family day care homes as defined by DHEC regulations:

No more than six (6) children within DHEC Guidelines and only one (1) operator (no other employees) who is a resident of the premises. Further, any family day care home shall meet the provisions of Article IV. DAY CARE FACILITIES, Section 6-40 including the permitting requirements and approval process.

702 R-2 - Medium Density Residential District.

Intent. To provide an area for medium density residential neighborhoods and to encourage the use of the land for residential purposes and to prohibit any use which would substantially interfere with the development or the continuance of residential development.

702.1 Uses Permitted.

- (1) All uses allowed in the R-1 District and all conditional uses subject to the conditions;
- (2) Two family residences and garage apartments accommodating no more than two families per lot;
- (3) Multi-family residences provided that they:
 - (a) Meet the following densities: the first unit on each lot requires six thousand (6,000) square feet and each additional unit requires an additional two thousand five hundred (2,500) square feet of gross lot area.

702.2 Other Requirements for Multi-family Dwellings, Townhouses, or Condominiums.

- (1) In multi-family dwellings, townhouses, or condominiums a minimum of ten (10%) percent of the gross area will be placed in usable open space; and,
- (2) In the case of townhouses and condominiums the articles of incorporation and the property owners association documents will be submitted to the Building Inspector for review.

703 R-3 - High Density Residential District.

Intent. To provide an area for medium to high density residential uses to prohibit any use that would substantially interfere with the development or continuation of residential structures in the District.

703.1 Uses Permitted.

- (1) Uses permitted in R-2 District and all conditional uses provided the conditions are followed; and,
- (2) Manufactured homes on individual lots.

703.2 Conditional Uses.

- (1) Mobile home parks provided that a Mobile Home Park Plan be submitted to and approved by the Building Inspector prior to development.

The Plan must contain:

- (a) Site plan, showing general location uses, plan and dimension of each building or structure to be constructed and the proposed location of each mobile home unit;
- (b) The location, dimension and arrangement of all open spaces, yards, access ways, entrances, exits, off-street parking facilities, pedestrian ways, roads, streets and sidewalks with dimensions;
- (c) Location and type of all utilities;
- (d) Traffic circulation;
- (e) Drainage; and,
- (f) Parking.

703.3 Requirements for Mobile Home Parks:

- (1) Minimum Area: Three (3) acres.
- (2) Minimum Side Yard: No less than fifteen (15) feet from each side, except when the side lot line for the park abuts any residential zoning district, a minimum side yard of thirty (30) feet will be required;
- (3) Minimum Rear Yard: Same as Side Yard;
- (4) Minimum of fifteen (15) feet between manufactured homes;
- (5) No more than nine (9) mobile homes per acre;
- (6) A minimum of twenty-five hundred (2,500) square feet set aside for common recreational open space or at least one hundred (100) square feet for each lot whichever is greater. In the case of large lots, the Building Inspector can reduce this up to fifty (50%) percent; and,
- (7) Each individual manufactured home space shall provide a lot consisting of not less than four thousand (4,000) square feet of clearly defined area.

704 C-1 - Arterial Business District.

Intent. The intent of this District is to provide compatible locations to serve the automobile oriented commercial activities in harmony with major highway developments, reduce traffic congestion and enhance the aesthetic atmosphere of the Town.

704.1 Uses Permitted:

- (1) Assembly halls, gymnasiums, and similar structures;
- (2) Automobile sales and service and washing establishments excluding automobile junk yards;
- (3) Barber shops, beauty shops;

- (4) Boat sales and service;
- (5) Book stores, candy stores, drug stores;
- (6) Bowling alleys;
- (7) Building supplies and equipment sales;
- (8) Bus and train stations;
- (9) Grocery stores, hardware stores;
- (10) Churches;
- (11) Libraries;
- (12) Cold storage and freezer lockers;
- (13) Electrical appliances and equipment, sales and repair;
- (14) Farm equipment sales and service;
- (15) Funeral homes and mortuaries;
- (16) Golf driving ranges, miniature and par 3 lighted golf courses and similar outdoor recreation facilities;
- (17) Plumbing shops;
- (18) Produce stands and markets;
- (19) Real estate, insurance sales;
- (20) Restaurants, lounges also including drive-in restaurants;
- (21) Skating rinks;
- (22) Dressmaker, seamstress, tailor;
- (23) Medical, dental or chiropractic or other medically oriented offices, clinic, and/or laboratory;
- (24) Hospitals;
- (25) Gift stores;
- (26) Packing terminals;
- (27) Wholesale establishments;
- (28) Hotels, motels, tourist homes;
- (29) Gasoline service stations;
- (30) Banks and other financial institutions; and,
- (31) Customary accessory uses.

704.2 Conditional Uses.

- (1) The following uses are allowed provided the conditions set forth in this section are met; they are only in operation during normal business hours; and no noise or air pollution is caused:
 - (a) Fabricating shops of small size such as cabinet, upholstery and sheet metal shops;
 - (b) Sign painting and fabricating shops; and,
 - (c) Auto repair, or truck repair, provided that no open storage of junk cars or materials is allowed,

- (2) Theaters, drive-in, provided that:
 - (a) No part of the theater screen, projection booth, or other building shall be located closer than five hundred (500) feet to any residential district; not closer than fifty (50) feet to any property line or public right-of-way; and no parking space shall be located closer than one hundred (100) feet to any residential district; and,
 - (b) The theater screen shall not face a major street or highway.
- (3) Animal hospital, veterinary clinic provided all boarding arrangements are maintained within a building and no noises connected with the operation of the facility are discernible beyond the premises.

705 C-2 - Central Business District.

Intent. To establish and preserve the Central Business District for commercial uses focused on pedestrians and to concentrate comparative shopping and professional or service operations in a centrally located area.

705.1 Uses Permitted:

- (1) Barber shops; beauty shops;
- (2) Bus and transportation depots;
- (3) Banks and other financial institutions, including loan and finance establishments;
- (4) Billiard parlors;
- (5) Lodges and art museums and related cultural establishments;
- (6) Dining establishments excluding drive-in facilities;
- (7) Hardware stores;
- (8) Hotels, motels and accessory uses;
- (9) Laundry and dry cleaning pick-up stations and plants;
- (10) Laundromats;
- (11) Libraries;
- (12) Offices - business, professional, and governmental;
- (13) Parking lots;
- (14) Public buildings, including police stations, jails, and fire stations;
- (15) Repair shops, excluding automotive, provided that no open storage of junk cars or materials is allowed;
- (16) Stores retailing antiques, auto accessories, appliances, clothing, drugs, dry goods, newspapers, flowers, foods, including bakeries

where products are sold exclusively at retail on premises, beverages, furniture, gifts, hardware, hobby and craft supplies, jewelry, leather goods, notions, office equipment and supplies, paint and wallpaper, pets, seeds, and feeds;

- (17) Taxi stands;
- (18) Theaters, indoor only;
- (19) Insurance agency;
- (20) Real estate agency;
- (21) Uses customarily accessory to permitted uses, but not to include open-air storage;
- (22) Any other similar use not specifically mentioned; and,
- (23) Accessory uses customary to business uses.

705.2 Conditional Uses:

- (1) Business school provided it meets all State and Town requirements; and,
- (2) Radio and/or television studio provided the transmission tower is not located on the site.

706 Office Commercial District

Intent. The purposes of the Office Commercial District are to create and protect areas for general office uses and similar establishments. The regulations which apply within the district are designed to provide a transition area between areas designated for general business and residential areas, to reduce traffic congestion, to avoid the development of "strip" business districts and to discourage industrial uses and other development capable of adversely affecting the office character of the District.

706.1 Uses Permitted:

- (1) Bank;
- (2) General business offices such as real estate, insurance and similar uses excluding retail and wholesale sales;
- (3) Professional offices such as doctors, lawyers, dentists and similar uses;
- (4) Studio for artist, photographer, sculptor or musician;
- (5) Church;
- (6) Public owned and operated building, facility or land, provided that the location of these uses shall first be reviewed and approved by the Building Inspector;
- (7) Funeral homes;
- (8) Library;

- (9) Boarding house;
- (10) Nursing home; and,
- (11) Residences above permitted uses.

707 LI - Limited Industrial District.

Intent. The intent of the Limited Industrial District is to provide areas for limited industrial purposes which are not significantly objectionable in terms of noise, odor, fumes, etc., to surrounding properties. The regulations which apply within this District are designed to encourage the formation and continuance of a compatible environment for uses generally classified to be limited industrial in nature.

707.1 Permitted Uses:

- (1) Transportation terminal facilities;
- (2) Utility stations;
- (3) Agricultural uses;
- (4) Radio or television station/transmission towers; and,
- (5) Trade or vocational schools; and,
- (6) Lumber processing and sales.

707.2 Conditional Uses:

- (1) Any industrial use, plus operations incidental to such use, which involves manufacturing, processing, assembly and storage operations, provided said manufacturing, processing, assembly, or storage in no way involves any junk or salvage operations; provided that there is no open storage of junk or salvage materials; and provided that any noise, vibration, smoke, gas, fumes, odor, dust, fire hazard, dangerous radiation or other obnoxious conditions related to the operation are not sufficient to create a nuisance beyond the premises;
- (2) Warehouse or other storage facility, provided that there is no open storage of junk or salvage materials of any type in conjunction with the operation, and no outdoor products storage shall be allowed;
- (3) Wholesale business outlet, provided that there is no open storage of junk or salvage materials of any type in conjunction with the operation;
- (4) Automobile service station provided that all pumps are set back at least twenty-five (25) feet from the right-of-way line of any street; and provided that there is no open storage of any type in conjunction with the operation;
- (5) Animal hospital and/or boarding facility provided all boarding

arrangements are maintained within a building and no noise connected with the operation of the facility is discernible beyond the premises;

- (6) Retail business provided such business is incidental to a permitted use; is located on the same premises as a permitted use; and involves no open storage of junk or salvage materials of any type in conjunction with the operation;
- (7) Truck terminal provided that paved acceleration and deceleration lanes at least ten (10) feet in width, one hundred (100) feet in length, respectively, are furnished and maintained where trucks enter or leave terminal sites located adjacent to major streets, provided no safety hazard or impediment to traffic movement is produced on any access road; and provided no open storage of any type is conducted in connection with the operation;
- (8) Watchman or caretaker's one-family or two-family dwelling provided that such dwelling is located on the premises of a permitted use; and provided the head of the household is employed by the industry as a watchman or caretaker;
- (9) Dwelling incidental to a permitted agricultural or horticultural use provided that such related dwellings are occupied only by persons employed directly on the premises;
- (10) Garage or shop for the repair and servicing of motor vehicles, equipment or machine parts provided any open yard storage incidental to such an operation conforms to the provisions of this Ordinance; and provided no objectionable sound, vibration, heat, glare or electrical disturbance is perceptible beyond the premises.

707.3 Other Requirements:

- (1) Minimum Side Yard: No less than fifty (50) feet on each side, except when the property abuts another zoning district at least one hundred (100) feet will be required. Where the District abuts a residential zoning district not separated by a right-of-way, a suitable planting screen, fence or wall of at least six (6) feet in height will be required; and,
- (2) Maximum Rear Yard: Same as Side Yard.

708 HI - Heavy Industrial District:

Intent. The intent of the Heavy Industrial District is to promote the development and continued use of land for large-scale basic or primary industrial purposes which involve extensive manufacturing, processing or

assembly operations; and preserve sizeable tracts of undeveloped land with potential for industrial use.

708.1 Permitted Uses:

- (1) Any use permitted in the LI District and any conditional use provided all conditions are met;
- (2) Any industrial use plus operations incidental to or required for such use, which involves manufacturing, processing, assembly, transportation, or storage operations providing such activities do not cause obnoxious noise, vibration, smoke, gas, fumes, odor, dust, fire hazard, or other objectionable conditions; and,
- (3) Any incidental use to an industrial use.

708.2 Conditional Uses:

- (1) Open yard use for the sale or storage of new or used materials providing a fence or wall at least six (6) feet in height is established around the storage area;
- (2) Watchman or caretaker's single-family dwelling provided that it is located on the premises of a permitted use; and provided the head of the household is employed by the industry as a watchman or caretaker; and,
- (3) Any industrial use, plus operations incidental to such use, which may produce injurious or obnoxious noise, vibration, smoke, gas, fumes, odor, dust, fire hazard, or other objectionable conditions provided such use is located at least five hundred (500) feet from any abutting property line; and provided such use is located on a site at least thirty (30) acres in size.

708.3 Other Requirements:

- (1) Minimum Side Yard: No less than one hundred (100) feet on each side, except that when the property abuts another zoning district two hundred (200) feet shall be required. Where the District abuts a residential district, a suitable planting screen, fence, or wall at least six (6) feet in height above finished grade will be required; and,
- (2) Minimum Rear Yard: Same as Side Yard.

709 PD - Planned Development District.

Intent. It is the intent of the Planned Development District to provide for large scale development projects with mixed land uses as a means of creating a superior environment through unified development and to provide for the

application of design ingenuity while protecting surrounding developments.

709.1 Permitted Uses:

- (1) Single-family units; and,
- (2) Multi-family units, townhouses and condominiums.

709.2 Conditional Uses:

The following uses shall be permitted in any Planned Development District provided they meet the requirements set forth in 709.3, 709.4, and 709.5:

- (1) Commercial provided it is conducive to the other uses; and,
- (2) Industrial provided there are no adverse affects on other uses.

709.3 Other Requirements:

- (1) Minimum Area: Five (5) acres;
- (2) Maximum Height: Set by Planning Commission;
- (3) Maximum Density: Set by Planning Commission;
- (4) Minimum of ten (10%) percent of the area must be set aside for usable open space and recreational requirements;
- (5) Plans must be submitted with the request for a change to a PD containing the following:
 - (a) Proposed building sites and types of buildings;
 - (b) Density;
 - (c) Plans for screening;
 - (d) A written report specifying a general description of the proposal, legal description of the land, standards for development including restrictions on the use of the property, density and restrictive covenants, statement defining manner the Town Council is to be assured that all improvements will be installed;
 - (e) Tabulations showing the number of dwelling units and types; and,
 - (f) Off-street parking and loading facilities.

709.4 Administrative Procedures:

Any request pertaining to establishment of a Planned Development shall be:

- (1) Considered an amendment to the Zoning Ordinance and be

- administered and processed in accordance;
- (2) All further development shall conform to the standards adopted for the District regardless of change of ownership; and,
 - (3) Any proposed changes in the District shall be treated as amendments to the Zoning Ordinance.

709.5 Construction Timetable:

A construction timetable shall be submitted to the Planning Commission including starting and completion dates.

ARTICLE VIII

AREA, YARD, AND HEIGHT REQUIREMENTS

| | <u>MINIMUM LOT WIDTH AT BUILDING LINE</u> | <u>FRONT YARD SETBACK</u> | <u>REAR YARD SETBACK</u> | <u>SIDE YARD SETBACK</u> | <u>MAXIMUM BUILDING HEIGHT</u> |
|------------------|---------------------------------------------------|-----------------------------------|----------------------------------|----------------------------------|----------------------------------------|
| R-1 | 10,000 Sq. Ft. | 25 Feet | 20 Feet | 10 Feet | 35 Feet |
| R-2 ¹ | 6,000 Sq. Ft. | 20 Feet | 10 Feet | 5 Feet | 35 Feet |
| R-3 ² | 5,000 Sq. Ft. | 20 Feet | 10 Feet | 5 Feet | 35 Feet |
| C-1 | 15,000 Sq. Ft. | 40 Feet | 20 Feet | 10 Feet | 35 Feet |
| C-2 | - | - | - | - | 35 Feet |
| OC | 10,000 Sq. Ft. | 25 Ft. | 20 Ft. | 10 Ft. | 35 Feet |
| LI ³ | 2 Acres | 75 Feet | 50 Feet | 50 Feet | - |
| HI ⁴ | 10 Acres | 150 Feet | 100 Feet | 100 Feet | - |
| PD | 5 Acres | - | - | - | - |

¹ See Uses Permitted, Section 702.1

² See Requirements for Mobile Home Parks, Section 703.3

³ See Other Requirements, Section 707.3

⁴ See Other Requirements, Section 708.3

ARTICLE IX

SIGN REGULATIONS

900 These conditions are established as a reasonable and impartial method of regulating advertising structures in order to assure light, air, and open space, to reduce hazards at intersections, and to protect property values of the entire community. No sign shall be erected or maintained unless it is in compliance with the regulations of this Article.

901 General Provisions

In any zoning district, the following general regulations shall apply as well as the regulations in Chapter 23, "Signs and Outdoor Displays", of the Standard Building Code:

901.1 No sign shall be erected or maintained whereby of reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be confused with any authorized traffic control sign, signal, or device;

901.2 No sign having flashing, intermittent or animated illumination shall be permitted within three hundred (300) feet of property in any urbanized residential district unless such sign is not visible from such property;

901.3 No illuminated sign shall be permitted within fifty (50) feet of property in any residential district unless the illumination of such sign is so designed that it does not shine or reflect light onto such property;

901.4 No billboard or ground sign shall be erected to exceed the maximum height limitation for the district in which it is located or to exceed fifty (50) feet in length. The bottom coping of every ground sign shall be at least three (3) feet above the ground or street level;

901.5 Billboards and other similar outdoor advertising structures shall be erected or placed in conformity with the side, front, and rear yard requirements of the district in which it located. However, no billboard shall be erected or placed closer than within one hundred (100) feet of any residential district;

901.6 Signs erected and overhanging any sidewalk must be placed at least nine (9)

feet above the sidewalk and may extend over the sidewalk a distance equal to two-thirds (2/3) the width of the sidewalk, but in no case exceeding ten (10) feet;

901.7 Professional signs and signs for home occupations shall not exceed four (4) square feet in area, in the R-1 and R-2 and R-3 Districts;

901.8 No building walls or roofs shall be used for display or advertisement in the R-1, R-2 and R-3 Districts;

901.9 Temporary signs shall not be erected or otherwise fixed to any pole, tree, stone, fence, or any object within the right-of-way of any street. A temporary sign shall not be suspended across public streets or other public places without the approval of the Building Inspector;

901.10 In any district, the following signs shall be permitted:

- (1) For parking areas, entrance and exit signs shall not exceed four (4) square feet in area and there can be only one (1) sign which shall not exceed sixteen (16) square feet in area, identifying or designating the conditions of the use of such parking area;
- (2) Nonilluminated "for sale" or "for rent" not exceeding four (4) square feet in area;
- (3) One (1) sign not more than twelve (12) square feet in area giving the name of the contractors, engineers, or architects during construction of a building;
- (4) Signs established by, or by order of, any governmental agency;
- (5) For special events of public interest, one (1) sign not more than thirty-two (32) square feet in area located upon the site of the event.

901.11 Signs on the walls of buildings (either painted or attached to the wall) shall not exceed twenty (20%) percent of the surface area of the wall. Wall signs attached flat against a wall shall not extend more twenty-four (24) inches from the wall. Signs projecting from a wall may extend outward not more than six and one-half (6 1/2) feet. In no case shall signs project beyond property lines.

902 Signs Permitted in the R-1, R-2, R-3 Residential Districts and OC District.

902.1 Name plates indicating name, address, house number, announcement of boarders or roomers, or customary home occupation are permitted;

902.2 For multi-family dwellings and mobile home parks exclusively, one (1)

business identification sign not exceeding nine (9) square feet in area is permitted;

902.3 Church, school, or other public building, and nonresidential uses, bulletin boards or identification signs not exceeding twenty (20) square feet in area are permitted;

902.4 Flashing or intermittent illumination is prohibited;

902.5 Billboards and other advertising structures are prohibited.

903 In Arterial Business and Central Business Districts, the following regulations shall apply:

903.1 Bulletin boards or identification signs, not exceeding sixty (60) square feet in area, shall be permitted for public recreation uses, community facilities, or clinics;

903.2 Business signs shall be permitted subject only to the restrictions in Section 901 (Signs, Billboards, and Other Advertising Activities) of this Ordinance. All ground signs shall not be located any closer than one-half (1/2) the required setbacks;

903.3 Billboards and other outdoor advertising structures are permitted, subject to the general restrictions set forth in Section 901;

903.4 Signs permitted in the residential districts provided all conditions are met.

904 In Limited Industrial and Heavy Industrial Districts the following regulations shall apply:

904.1 Business signs shall be permitted which relate to business on the premises. Such signs shall not be located closer than one-half (1/2) the required setback from all property lines;

904.2 Flashing and intermittent illumination is prohibited;

904.3 Billboards and other outdoor advertising structures are permitted, subject to the general restrictions set forth in Section 901;

904.4 All signs permitted in residential and commercial districts provided all conditions are met.

ARTICLE X

EXCEPTIONS AND MODIFICATIONS

- 1001 Lot of Record. Where the owner of a lot consisting of one (1) or more adjacent lots of record at the time does not own sufficient land to enable him to conform to the yard or other requirements of this Ordinance, in the opinion of the Building Inspector, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this Ordinance. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as possible in the opinion of the Board of Zoning Appeals.
- 1002 Adjoining and Vacant Lots of Record. A plat of land consisting of one (1) or more adjacent lots with continuous frontage in single ownership which individually are less than the lot widths required by this Ordinance, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subjected to the requirements of this Ordinance.
- 1003 Front Yards. The front yard requirements of this Ordinance for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots.
- 1004 Group Housing Projects. In the case of a group housing project or two (2) or more buildings to be constructed on a plot of ground of at least one (1) acre not subdivided, or where the existing or contemplated street and lot layout make it impractical to apply the requirements of this Ordinance to the individual building units in such housing projects, an exception to the terms of this Ordinance may be made by the Building Inspector in a manner that will be in harmony with the character of occupancy and an intensity of land use no higher and a standard of open space no lower than that permitted by this Ordinance in the district in which the project is to be located. However, in no case shall the Building Inspector authorize a use prohibited in the district in which the project is located, or a smaller lot area per family than the minimum required in such district, or a greater height, or a larger coverage than the requirements of this Ordinance permits in such a district.
- 1005 Exception on Height Limits. The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts and aerials.

- 1006 Open Display. With the exception of automobiles, newspaper stands, nursery and agricultural products, vending machines and related items, normally displayed outside of enclosed structures, no merchandise shall be openly displayed. Sidewalk sales shall be allowed provided that the merchant conducting the sale confines the display area to his/her storefront area and no impediments to pedestrian movement or impairment of driver's vision shall be allowed, and otherwise conduct the activities in a safe manner as determined by the sole discretion of the Building Inspector.
- 1007 Open Air Storage. No merchandise, equipment, machinery or junk and salvage material shall be stored outside of any enclosed structure in any zoning district.

ARTICLE XI

ADMINISTRATION, ENFORCEMENT, APPEAL COMPLAINTS AND REMEDIES

- 1100 Administration and Enforcement. The Hemingway Town Council shall appoint the Building Official to administer and enforce the provisions of this Ordinance. If the Building Official shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures, or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.
- 1101 Building and Sign Permits Required. No building, manufactured home, sign or other structure shall be erected, located, moved, added to, or structurally altered without a permit therefore issued by the Building Official. No building, manufactured home, or sign permit shall be issued by the Building Official except in conformity with the provisions of this Ordinance, unless he is so directed by the Board of Zoning Appeals as provided by this Ordinance. No building permit issued under the provisions of this Ordinance for land use or construction in the Town of Hemingway shall be considered valid unless signed by the Building Official, as duly designated in Section 1100.
- 1102 Application for Building Permit. All applications for building permits shall be accompanied by plans in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Building Official, including existing or proposed buildings or alterations, existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance.
- One (1) copy of the plans shall be returned to the applicant by the Building Official after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original copy of the plans, similarly marked, shall be retained by the Building Official.
- 1103 Certificate of Occupancy for New, Altered, or Nonconforming Uses. It shall be unlawful

to use, occupy or permit the use or occupancy of any building, manufactured home, or premises, or all, or parts thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy shall have been issued therefore by Building Official stating that the proposed use of the building or land conforms to the requirements of this Ordinance.

No nonconforming structure or use shall be maintained, renewed, changed, or extended until a Certificate of Occupancy shall have been issued by the Building Official. The Certificate of Occupancy shall state specifically wherein the nonconforming use differs from the provisions of this Ordinance, provided that upon enactment or amendment of this Ordinance, owners or occupants of nonconforming uses or structures shall have three (3) months to apply for a Certificate of Occupancy. Failure to make such application within three (3) months shall be presumptive evidence that the property was in conformance at the time of enactment or amendment of this Ordinance.

No permit for erection, location, alteration, moving, or repair of any building or mobile home shall be issued until an application has been made for a Certificate of Occupancy, and the Certificate shall be issued in conformity with the provisions of this Ordinance upon completion of the work. A temporary Certificate of Occupancy may be issued by the Building Official for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that such temporary Certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

No Certificate of Occupancy issued under the provisions of this Ordinance shall be considered valid unless signed by the Building Official, as duly designated in Section 1100.

The Building Official shall maintain a record of all Certificates of Occupancy and a copy shall be furnished upon request to any person.

Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance, and punishable under Section 1108 of this Ordinance.

1104 Conditional and Temporary Uses. Conditional uses, as set forth in Article VII of this Ordinance, and temporary uses, as set forth below, are declared to possess characteristics which require certain controls in order to insure compatibility with other uses in the District within which they are proposed for location.

1104.1 General Requirements:

Conditional uses shall be permitted subject to a determination by the Building Official that they conform to all regulations set forth herein and elsewhere in this Ordinance, with particular reference to those requirements established for those districts in which they are proposed for location.

1104.2 Conditional Use Administration and Duration:

Application for permission to build, erect or locate a conditional use shall be

submitted and processed in accordance with the regulations set forth in this Article., prior to the issuance of any permits.

1104.3 Temporary Uses:

The Building Official is authorized to issue a Temporary Certificate of Zoning Compliance for temporary uses, as follows:

- (a) Carnival, circus, or fair, for a period not to exceed twenty-one (21) days, subject to approval of the Town Council.
- (b) Religious meeting in a tent or other temporary structure, for a period not to exceed fourteen (14) days.
- (c) Open lot sale of Christmas trees for a period not to exceed forty-five (45) days.
- (d) Real estate sales office, in any district, for a period not to exceed one (1) year, provided no cooking or sleeping accommodations are maintained in the structure.
- (e) Contractor's office and equipment sheds, in any district for a period of one (1) year, provided that such office be placed on the property to which it is appurtenant.
- (f) All Temporary Certificates of Zoning Compliance may be renewed provided that it is determined that said use is clearly of a temporary nature, will cause no traffic congestion and would not create a nuisance to surrounding uses.

1105 Expiration of Building Permit. If the work described in any building permit has not begun six (6) months from the date of issuance thereof, said permit shall expire; it shall be canceled by the Building Official, and written notice shall be given to the persons affected.

1106 Complaints Regarding Violations and Remedies. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Official. He shall record properly such complaint, immediately investigate, and take whatever action is necessary to assure compliance with the Ordinance.

1107 Remedies. In case any building or structure is proposed to be or is erected, constructed, reconstructed, altered, maintained, or used; or, any land is proposed to be or is used in violation of this Ordinance, the Building Official, the Town Council, the Town Attorney, or any other person aggrieved may, in addition to other remedies provided by law, institute an injunction, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.

- 1108 Penalties for Violation. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with a grant of variance) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100 or imprisoned for not more than thirty (30) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

- 1109 Appeal from the Decision of the Building Official. It is the intention of this Ordinance that all questions arising in connection with the enforcement of the Ordinance shall be presented first to the Building Official and that such questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Building Official, as provided in Article XII.

ARTICLE XII

BOARD OF ZONING APPEALS

- 1200 Establishment of Board of Zoning Appeals. A Board of Zoning Appeals is hereby established. Said Board shall consist of five (5) members, who shall be citizens of the Town of Hemingway and shall be appointed by the Town Council for overlapping terms of three (3) years. Initial appointment shall be as follows: one (1) member for a term of three (3) years, two (2) members for a term of two (2) years, and two (2) members for a term of one (1) year. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay, but may be reimbursed for any expenses incurred while representing the Board.
- 1201 Proceedings of the Board of Zoning Appeals. The Board of Zoning Appeals shall elect a chairman and a vice chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be a Town officer, an employee of the Town, a member of the Planning Commission, or a member of the Board of Zoning Appeals. The Board shall adopt rules and by-laws in accordance with the provisions of this Ordinance and of the General Statutes of South Carolina, Section 6-29-790. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. All meetings of the Board shall be open to the public.
- 1202 Decisions of the Board of Zoning Appeals. The concurring vote of three (3) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Building Official or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation of this Ordinance. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. On all appeals, applications and matters brought before the Board of Zoning Appeals, the Board shall inform in writing all the parties involved of its decisions and the reasons thereof. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board which must be delivered to parties of interest by certified mail.
- 1203 Appeals, Hearings, and Notice. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the Town. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Building Official and with the Board of Zoning Appeals notice of said appeal specifying the grounds thereof. The Building Official shall forthwith transmit to the Board all papers constituting

the record upon which the action appealed from was taken.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Building Official certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the Town at least fifteen (15) days in advance of the scheduled hearing date. At the hearing any party may appear in person or by agent or by attorney. Conspicuous notice shall be posted on or adjacent to the property affected, with at least one (1) such notice being visible from each public thoroughfare that abuts the property.

1204 Powers and Duties of the Board of Appeals. The Board of Zoning Appeals shall have the following powers and duties:

1204.1 To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Building Official in the enforcement of this Ordinance.

1204.2 To authorize upon appeal in specific cases a variance from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will in an individual case, result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in case of unnecessary hardship upon a written finding by the Board of Zoning Appeals, that:

- (a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (b) these conditions do not generally apply to other property in the vicinity;
- (c) because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and,
- (d) the authorization of a variance will not be a substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.
 - (i) the Board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning

district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the Official Zoning Map. The fact that property may be utilized more profitably should a variance be granted may not be considered grounds for a variance.

1204.3 In exercising the above powers, the Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the Building Official from whom the appeal is taken and may issue or direct the issuance of a permit. The Board, in the execution of the duties for which appointed, may subpoena witnesses and in case of contempt may certify such fact to the Circuit Court having jurisdiction.

1205 Appeals from Decisions of the Board of Zoning Appeals. Any person who may have a substantial interest in any decision of the Board of Zoning Appeals may appeal from any decision of the Board to the Circuit Court in and for the County of Williamsburg by filing with the Clerk of said Court a petition in writing setting forth plainly, fully, and distinctly wherein such decision is contrary to law. Such appeal shall be filed within thirty (30) days after the decision of the Board is mailed.

1205.1 Upon the filing of the appeal, the Clerk of the Circuit Court shall give immediate notice of it to the secretary of the Board and within thirty (30) days from the time of the notice, the Board shall file with the Clerk a certified copy of the proceedings held before the Board, including a transcript of the evidence heard before it, if any, and the decision of the Board including its findings of fact and conclusions.

1205.2 The filing of an appeal in the Circuit Court from a decision of the Board shall not ipso facto act as a supersedeas, but the judge of the Circuit Court may in his discretion grant a supersedeas upon such terms and conditions as may seem reasonable and proper.

1205.3 At the next term of the Circuit Court or in chambers, upon ten days' notice to the parties, the presiding judge of the Circuit Court shall proceed to hear and pass upon the appeal on the certified record of the Board proceedings. The findings of fact by the Board shall be treated in the same manner as a finding of fact by a jury, and the Court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the Board for rehearing. In determining the questions presented by the appeal, the Court shall determine only whether the decision of the Board is correct as a matter of law. In the event that the decision of the Board is reversed by the Circuit Court, the Board is charged with the costs, and the costs must be paid by the Town.

1205.4 A party in interest who is aggrieved by the judgement rendered by the Circuit Court upon the appeal may appeal in the same manner provided by law for appeals from

other judgements of the Circuit Court in law cases.

- 1206 Financing of Board of Zoning Appeals. The Town Council may appropriate such monies, otherwise unappropriated, as it considers fit to finance the work of the Board and to generally provide for the enforcement of any zoning regulations and restrictions authorized by this Ordinance and may accept and expend grants of money for these purposes from either private or public sources, whether local, state or federal.

ARTICLE XIII

AMENDMENTS

- 1300 Authority. This Ordinance, including the Official Zoning Map, may be amended from time to time by the Town Council as herein specified, but no amendment shall become effective unless it shall have been proposed by or shall first have been submitted to the Planning Commission for review and recommendation. The Planning Commission shall have thirty (30) days within which to submit its report. If the Planning Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment.
- 1301 Requirements for Change. When the public necessity, convenience, general welfare, or good zoning practice justify such action, and after the required review and report by the Planning Commission, the Town Council may undertake the necessary steps to amend the Zoning Ordinance.
- 1302 Procedure for Amendments. Requests to amend the Zoning Ordinance shall be processed in accordance with the following requirements:
- 1302.1 Initiation of Amendments. A proposed amendment to the Zoning Ordinance may be initiated by the Planning Commission or Town Council, or by the owner or owners of the property proposed to be changed, provided, however, that action shall not be initiated for an amendment affecting the same parcel or parcels of property or any part thereof, and requesting the same change in district classification by a property owner or owners of more than once every twelve (12) months.
- 1302.2 Application Procedure. Application forms for amendment requests shall be obtained from the Planning Commission. Completed forms, together with an application fee to cover administrative costs, plus any additional information the applicant feels to be pertinent, shall be filed with the Planning Commission.
- The person requesting the rezoning must submit to the Planning Commission letters addressed to each property owner within two hundred (200) feet of said property in question containing information adequate to notify such owners and residents of the intention to rezone the area for which the application is submitted and when and where the public hearing will be held before the Planning Commission. The return address of the Planning Commission must appear on the envelope, and a list of all persons to whom letters are sent must accompany the application. Any communication purporting to be an application for an amendment shall be regarded mere notice to seek relief until it is made in the form required.
- Applications for amendments must be submitted, in proper form, at least two (2) weeks prior to a Planning Commission meeting in order to be heard at that meeting.

In cases involving rezoning, conspicuous notice shall be posted on or adjacent to the property affected, with at least one (1) such notice being visible from each public thoroughfare that abuts the property.

Application fees shall be forwarded by the Planning Commission to the Town Administrative Officer who shall supervise the application of same to the costs of advertising and other administrative expenses.

1302.3 Hearing by the Planning Commission. All papers and other data submitted by the applicant on behalf of the amendment request shall be transmitted to the Planning Commission.

The Planning Commission, at regular meetings, shall review and prepare a report, including its recommendation for transmittal to the Town Council.

All meetings of the Planning Commission shall be open to the public. At a meeting, any party may appear in person, or by agent, or by attorney.

No member of the Planning Commission shall participate in a matter in which he has any pecuniary or special interest.

Following action by the Planning Commission, all papers and data pertinent to the application shall be transmitted to the Town Council for final action.

1302.4 Public Hearing. Before enacting an amendment to this Ordinance, the Town Council or Planning Commission shall hold a public hearing thereon; notice of the time and place of which shall be published in a newspaper of general circulation in the Town at least fifteen (15) days in advance of the scheduled public hearing date.

1303 Reversion. To prevent land speculation at the expense of the general public and to insure the timing of projects in accord with stated developmental objectives, construction shall start on all rezoned property within six (6) months after rezoning. If construction is not begun within the specified time and is not completed within two (2) years, the Planning Commission shall review the zoning of said property and the progress which has taken place and, if deemed necessary, initiate proceedings to reclassify the property in a manner consistent with the comprehensive plan.

ARTICLE XIV

FEES

- 1400 The Town Council shall establish a schedule of fees, charges, and expenses and a collection procedure for Building Permits, Certificates of Zoning Compliance, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the administrative official, and may be altered or amended only by the Town Council.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE XV

LEGAL STATUS PROVISIONS

- 1500 Conflict with Other Laws. Whenever the regulations of this Ordinance require a greater width or size of yards, or require a greater percentage of lot be left unoccupied, or impose other more restrictive standards than are required in or under any other statutes, the requirements of this Ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern.
- 1501 Separability. Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not effect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.
- 1502 Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are repealed to the extent necessary to give this Ordinance full force and effect.
- 1503 Effective Date. This Ordinance shall take effect and be in force from and after the date of its adoption by the Town Council of the Town of Hemingway.
- 1504 Savings Clause. The existing Hemingway Zoning Ordinance, enacted in July, 1980, as amended, is hereby repealed. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of or action to abate any existing violation of said Ordinance enacted in July, 1980, as amended, if the violation is also a violation of the provisions of this Ordinance.